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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,405	06/24/2003	Christ Pher Oriakhi	200300746-1	4185

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EXAMINER

MARCANTONI, PAUL D

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,405	Applicant(s) ORIAKHI ET AL.	
	Examiner Paul Marcantoni	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 42-52 is/are pending in the application.
- 4a) Of the above claim(s) 12-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 42-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The applicants response filed 3/23/05 has been considered and is not persuasive.

The applicants' amendment of existing claims and addition of new claims 42-52 necessitated the new grounds of rejection below:

Rejection under 35 USC 103:

Claims 1-11 and 42-52 are rejected under 35 USC 103(a) as obvious over Bredt et al. (US Pub No. 2001/0050031) alone or in view of Jang et al. or Popoola et al. (abstract only Jrnl Materials Rsch-1982) and Unsin '474 B1.

Note: All other primary references were withdrawn. The addition of Unsin '474 B1 was necessitated by the applicants additional new claims (e.g. claim 42 limitation of a Li accelerator for cement such as calcium aluminates).

Response:

The applicants that Bredt do not teach the specific combination of ingredients as claimed for their instant invention. The examiner disagrees and notes that Bredt teaches every single one of applicants claimed ingredients and they are mixed together. The fact that Bredt calls certain materials printing aids (e.g. polyethylene glycol) that are dispersed in the filler does not take away from the fact that polyethylene glycol, calcium aluminate, and materials such as polyvinyl alcohol and water are all combined together. The reasons for the combination need not be the same as applicants. Further, even if different reasons, the properties resulting for the same components as claimed by applicants would also be expected to be the same. It is also noted that crosslinking will

occur because Bredt teaches polyvinyl alcohol and a polyol such as polyethylene glycol; both of which applicants say becomes crosslinked when reacted with water.

The applicants also add new claims to adding an accelerator (e.g. a Li containing accerelerator) for hardening concrete. Yet, it is old and routine in the art to add an accelerator to quicken the setting of cement materials as it is old and routine in the art to add a retarder to slow down or retard setting. The addition of either ingredient to any cement composition would have been an obvious design choice for one of ordinary skill in the art. The applicants are referred to Unsin (US Patent No. 6,238,474 B1) which teaches it is known in the art to use a lithium accelerator such as lithium carbonate for cements, particularly aluminates (col.3, line 18).

The applicants state the examiner is using a pick and choose rationale for holding that Bredt et al. do not teach the instant invention. In rebuttal, there is no picking or choosing because a reference is good for all that it realistically teaches and it teaches that all of applicants' components are within the teaching of Bredt and they are mixed. The examiner cannot ignore the teachings of a reference, especially one that teaches all the components of applicants' claimed invention.

The applicants also argue Jang individually without arguing the purpose Jang is combined for the combination rejection. It is acknowledged the references do not teach all the features of the claimed invention but Jang provides the motivation to combine with the primary references.


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For the foregoing reasons, finality of this office action is now proper. The applicants' amendment necessitated the new grounds of rejection. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Marcantoni
Primary Examiner
Art Unit 1755